



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2012-0024]

Rollins College; T.A. Loving Co.; US Ecology Idaho, Inc.; and West Pharmaceutical Services, Inc.: Technical Amendment to, and Revocation of, Permanent Variances

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of technical amendment to, and revocation of, permanent variances.

SUMMARY: With this notice, the Occupational Safety and Health Administration ("OSHA" or "the Agency") is making a technical amendment to an existing permanent variance, and revoking several others. The technical amendment and revocations result from an OSHA review to identify variances that are outdated, unnecessary, or otherwise defective.

DATES: The effective date of the technical correction and revocation of the permanent variances is [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION: *General information and press inquiries.* Contact Frank Meilinger, Director, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1999. Email: meilinger.francis2@dol.gov

Technical information. Contact Stefan Weisz, Office of Technical Programs and Coordination Activities, Room N-3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2110; fax: (202) 693-1644. Email: weisz.stefan@dol.gov

Copies of this Federal Register notice. Electronic copies of this notice are available at <http://www.regulations.gov>. Electronic copies of this notice, as well as news releases and other relevant information, are available on OSHA's Web site at <http://www.osha.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

OSHA reviewed variances currently in effect to identify variances that are outdated, unnecessary, or otherwise defective; as part of this review, OSHA contacted by telephone every employer having a variance to ask them if they still needed the variance. Based on this review, OSHA identified four defective variances. The first of these variances requires a technical correction because OSHA, after granting the variance, renumbered the standard from which it granted the variance. The Agency also determined that the remaining three variances are no longer necessary because the employers that received the variances indicated that the requirement for the variances no longer exists, and that they now can comply with the standard from which OSHA granted the variance. With this notice, the Agency is correcting these problems. OSHA believes this notice will ensure that the first variance is consistent with the standard's existing enumeration and, for the revoked variances, this notice will notify employers and employees that the variances no longer cover the employers, and that the employers must comply with the appropriate OSHA standard.

The technical amendment implemented by this notice does not alter the substantive requirements of the first variance, which still remains in effect, so this corrected variance will continue to provide employees with the safety and health

protection afforded to them by the original variance. For the variances revoked by this notice, existing OSHA standards will provide employees with the necessary protection.

With this notice, the Agency is making only a technical correction to an existing variance, and revoking variances that employers no longer need for employee protection. Accordingly, this notice will not have a substantive effect on employers or employees; OSHA, therefore, finds that public notice-and-comment procedures specified under Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), and by 29 CFR 1905.11 or 1905.13, are unnecessary.

The following table provides details about the variances addressed by this notice:

Name of Employer (Company) Affected	Variance No.	Date Granted	Federal Register Cite	OSHA Standards
Rollins College	V-74-16	03/28/1974	39 FR 11481	1910.37(i)
T. A. Loving Co.	V-74-43	04/13/1976	41 FR 15483	1918.66(f)(1)(i)
US Ecology Idaho, Inc. (formerly EnviroSAFE Services, Inc.)	V-93-1	06/07/1994	59 FR 29440	1910.106(b)(2)(viii)(f)
West Pharmaceutical Services, Inc. (formerly The West Co.)	V-77-9	01/20/1978	43 FR 2945	1910.217(c)(3)(i)(e) and 1910.217(c)(3)(ii)

II. Technical Amendment to, and Revocation of, Permanent Variances

A. Technical Amendment of the Permanent Variance Granted to Rollins College

OSHA granted Rollins College a variance from 29 CFR 1910.37(i), which governed ceiling height for means of egress (see table above for details). The Agency renumbered this provision (to 29 CFR 1910.36(g)(1)) in a subsequent rulemaking that

revised its means-of-egress standards to improve the clarity and comprehensibility of these standards (see 67 FR 67962, November 7, 2002). While this rulemaking renumbered 29 CFR 1910.37(i) as 29 CFR 1910.36(g)(1), it did not revise the substantive requirements of the provision.

B. Revoking Permanent Variances

1. *T. A. Loving Co.* The Agency granted T. A. Loving Co. a variance permitting it to use dynamometers instead of load-indicating devices on mobile cranes (see the table above for details). In response to OSHA's telephone call, T. A. Loving's representative indicated that the variance is no longer needed. T. A. Loving requested in a subsequent letter that OSHA revoke the variance (Ex. 1 - OSHA-2012-0024).

2. *US Ecology Idaho, Inc.* The Agency granted Envirosafe Services, Inc. (now US Ecology Idaho, Inc.), a variance to make and break filling and emptying connections inside, instead of outside, a building during the transfer of flammable/combustible liquids as required by the OSHA standard (see the table above for details). In response to OSHA's telephone call, US Ecology Idaho's representative indicated that the variance is no longer necessary. Later, US Ecology Idaho requested in a letter that OSHA revoke the variance (Ex. 2 - OSHA-2012-0024).

3. *West Pharmaceutical Services, Inc.* The Agency granted The West Co. (now West Pharmaceutical Services, Inc.) a variance to use power presses with safety blocks and a sliding barrier that did not conform to OSHA's distance and guarding requirements (see the table above for details). In response to OSHA's telephone call, West Pharmaceutical Services' representative indicated that the company no longer needed the variance. West

Pharmaceutical Services then requested in a letter that OSHA revoke the variance (Ex. 3 - OSHA-2012-0024).

III. Decision

Based on the information described herein, including the finding that this notice will not alter the substantive requirements of the variance and will maintain the protection afforded to employees by the variances, the Agency is taking the following actions:

A. Correcting the Rollins College variance by updating the designation of the provision from which OSHA granted the variance from 29 CFR 1910.37(i) to 29 CFR 1910.36(g)(1).

B. Revoking the variances granted to T. A. Loving Co., US Ecology Idaho, Inc., and West Pharmaceutical Services. The variances granted to T. A. Loving Co. and West Pharmaceutical Services included facilities in North Carolina, a state with an OSHA-approved State Plan under Section 18 of the Occupational Safety and Health Act (29 U.S.C. 667). OSHA will notify North Carolina of the revocation of these variances.

IV. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C., authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 1-2012 (76 FR 3912), and 29 CFR part 1905.

Signed at Washington, DC, on June ____29____, 2012.

David Michaels,
Assistant Secretary of Labor for Occupational Safety and Health.

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